

# DEPARTMENT OF LABOR AND EMPLOYMENT

## Division of Workers' Compensation

7 CCR 1101-3

### WORKERS' COMPENSATION RULES OF PROCEDURE

#### Rule 2 Workers' Compensation Premium Surcharges

##### 2-1 PREMIUM REPORTING REQUIREMENTS

Every insurance carrier shall semi-annually file a surcharge return with the Division within the time period specified in section 2-4 of this rule. The return shall be verified by affidavits of its president and secretary or other chief officers or agents, and shall state the amount of premiums written, including any policy expense constants, membership fees, finance and service, or other administrative fees charged to the policyholder in connection with the issuance or renewal of a policy, as reported to the Division of Insurance in accordance with § 10-3-208, C.R.S., and regulations promulgated thereunder, during the period covered by such return. With this filing the insurance carrier shall pay the surcharges required by statute. Forms for such returns shall be provided by the Division.

##### 2-2 PAYROLL REPORTING REQUIREMENTS

Every self-insured employer shall semi-annually file a surcharge return with the Division, within the time period specified in section 2-4 of this rule. The return shall be verified by affidavits of its president and secretary or other chief officers or agents, and shall state the total amount of its payroll for the period covered by such return. With this filing the employer shall pay the surcharges required by statute. Forms for such return shall be provided by the Division.

##### 2-3 COMPUTATION OF PAYROLL SURCHARGES PAID BY SELF-INSURED EMPLOYERS

- (A) Surcharges paid by self-insured employers shall be based upon the manual premium, adjusted by Pinnacle Assurance discounts applicable for the surcharge period covered and modified by the experience rating factor as calculated by the National Council on Compensation Insurance (NCCI). No other rating factor shall be allowable. The self-insured employer may elect not to provide such a rating factor; however, failure to submit the required rating factor will result in the premium surcharge being computed on the basis of manual premium only.
- (B) If the self-insured employer is unable to develop the experience rating factor due to the unavailability of reliable and adequate data, the employer may apply to the Director for approval to use a 1.0 experience rating factor for the following two semiannual surcharge periods. If at the conclusion of the two semiannual surcharge periods that the 1.0 factor is used, the NCCI has been unable to develop an experience modification, the Director may permit an extension of time for the 1.0 factor to be used.
- (C) In order that consideration be given to the experience modification, a completed NCCI form setting forth all of the information and methodology used in the calculation of the experience modification shall accompany each corresponding payroll report.

## 2-4 PAYMENT PERIODS AND CREDITS

- (A) The premium and payroll surcharges for the semiannual period beginning July 1, shall be based upon premiums written, including any policy expense constants, membership fees, finance and service, or other administrative fees charged to the policyholder in connection with the issuance or renewal of a policy, as reported to the Division of Insurance in accordance with § 10-3- 208, C.R.S., and regulations promulgated thereunder, for Colorado workers' compensation insurance or the self-insured employer's total payroll during the previous six months, and shall be paid to the Division on or before July 31 of that year, with a return form provided by the Division.
- (B) The premium and payroll surcharges for the semiannual period beginning January 1 shall be based upon premiums written, including any policy expense constants, membership fees, finance and service, or other administrative fees charged to the policyholder in connection with the issuance or renewal of a policy, as reported to the Division of Insurance in accordance with § 10-3- 208, C.R.S., and regulations promulgated thereunder, for Colorado workers' compensation insurance or the self-insured employer's total payroll during the previous six months, and shall be paid to the Division on or before January 31 of that year, with a return form provided by the Division.
- (C) An insurance carrier is entitled to a credit for canceled or returned premiums, including any policy expense constants, membership fees, finance and service, or other administrative fees charged to the policyholder in connection with the issuance or renewal of a policy, as reported to the Division of Insurance in accordance with § 10-3- 208, C.R.S., and regulations promulgated thereunder, actually refunded. The credit must be taken as an offset against surcharges due within one year of the date the premium amount was re-funded.
- (D) An insurance carrier or employer is not entitled to offset a credit of one subsidiary against the surcharge owed by another subsidiary.

## 2-5 SURCHARGE RATE

- (A) For the annual period beginning July 1, 2009 and continuing indefinitely with annual review by the Director, the workers' compensation cash fund premium surcharge rate authorized under §8-44-112(1)(a), C.R.S., shall be 1.5 percent of the amount of all premiums written, including any policy expense constants, membership fees, finance and service, or other administrative fees charged to the policyholder in connection with the issuance or renewal of a policy, as reported to the Division of Insurance in accordance with §10-3- 208, C.R.S., and regulations promulgated thereunder, or the premium equivalent amount established in section 2-3 of this rule, for Colorado workers' compensation insurance during the period of January 1, 2009 continuing indefinitely.
- (B) For the purpose of funding the direct and indirect costs of the Premium Cost Containment program of the Division as authorized under §8-44-112(1)(b)(I), C.R.S., there is added to the surcharge imposed pursuant to Section 2-5 of this rule, an additional increment for the annual period beginning July 1, 2009 and continuing indefinitely with annual review by the Director, against workers' compensation insurance premiums written, including any policy expense constants, membership fees, finance and service, or other administrative fees charged to the policyholder in connection with the issuance or renewal of a policy, as reported to the Division of Insurance in accordance with §10-3- 208, C.R.S., and regulations promulgated thereunder, during the period of January 1, 2009, continuing indefinitely. The amount of this assessment shall be 0.03 percent. No assessment shall be imposed upon self-insured employers under this subsection.

- (C) For the purposes of funding the financial liabilities of the Subsequent Injury Fund as authorized under §8-46-102(2)(A)(I), C.R.S. And the Major Medical Fund under §8-46-202, C.R.S., for the period beginning July 1, 2009, and continuing indefinitely with annual review by the Director, the tax shall be assessed at 2.088 percent of the amount of Workers' Compensation premiums written, including any policy expense constants, membership fees, finance and service, or other administrative fees charged to the policyholder in connection with the issuance or renewal of a policy, as reported to the Division of Insurance in accordance with §10-3-208, C.R.S., and regulations promulgated thereunder, or the premium equivalent amount established in Section 2-3 of this rule, for Colorado Workers' Compensation insurance during the period of January 1, 2009, continuing indefinitely.